



TPC

PATENT  
29250-000763/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David D. HUO Conf. No.: 7132  
Serial No.: 10/608,445 Group: Unassigned  
Filed: June 30, 2003 Examiner: Unassigned  
For: METHODS PROVIDING VARIABLE GRANULARITY FOR DATA FLOW  
CONTROL USING A LEAKY BUCKET

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**PETITION UNDER 37 C.F.R. § 1.53(e) TO MAINTAIN ORIGINAL FILING DATE**

**Mail Stop Missing Parts**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

May 18, 2004

Dear Sir:

In response to the Notice of Incomplete Nonprovisional Application filed under 37 CFR §1.53(b), mailed April 12, 2004, Applicant hereby respectfully petitions under the provisions of 37 C.F.R. §1.53(e) and MPEP 601.01(f) for decision to maintain the original filing date of June 30, 2003 in the above-identified application. Applicant asserts that the drawings were timely filed on June 30, 2003 with the filing of the application.

A Notice to File Notice of Incomplete Nonprovisional Application (dated April 12, 2004) received by Applicant indicates that:

- a.) the application was deposited without drawings;

- b.) the statutory basic filing fee is missing; and
- c.) the oath or declaration is missing.

Applicant asserts that one page of drawings is applicable to the present Application and that one page of drawings was properly filed along with the Application on June 30, 2004. Evidence of this filing is a post card time stamped by the USPTO indicating that one page of drawings was filed. A copy of the post-card can be found in Exhibit 1. A copy of the one page of drawings filed June 30, 2004 can be found in Exhibit 2.

A Response to the Notice of Incomplete Nonprovisional Application including the statutory basic filing fee and the original executed Declaration, along with a copy of the Notice of Incomplete Nonprovisional Application is being filed concurrently herewith.

Applicant requests that a petition under 37 C.F.R. §1.53(e) be granted to maintain the original June 30, 2003 filing date, for the reasons set forth below.

**Petition under 37 C.F.R. 1.53(e)**

35 U.S.C. § 111(a)(2) requires that an application for patent include *inter alia*, “a specification as prescribed by Section 112 of this title,” and 35 U.S.C. § 111(a)(4) provides that the “filing date of an application shall be the date on which the specification and any required drawings are received in the Patent and Trademark Office.” 35 U.S.C. § 112, first paragraph, provides, in part, that “the specification shall contain a written description of the invention,” and 35 U.S.C. § 112, second paragraph, provides that “the specification shall conclude with one or more claims particularly

pointing out and distinctly claim the subject matter which the applicant regards as his invention."

Applicant respectfully submits that the conditions for being accorded a filing date have been met. The Application filed on June 30, 2003 contained at least one claim, a specification that satisfied Section §112 of this title and had furnished drawings that were necessary for the understanding of the subject matter sought to be patented, as required under 35 U.S.C. §113 and 37 CFR §1.81(a). Applicant submits that the page of drawings filed June 30, 2003 were sufficient.

In view of the above-described facts, it is respectfully submitted that the application as filed on June 30, 2003 met all requirements for being accorded the filing date of June 30, 2003. Accordingly, this petition is being timely filed for the purpose of maintaining the June 30, 2003 filing date in view of the above-stated facts.

**Petition Fee**

In the event that the petition fee is deemed necessary by the United States Patent and Trademark Office, it is respectfully requested that the fee of \$130.00 as set forth in 35 U.S.C. §1.17(h)(1) be charged to Deposit Account No. 08-0750.

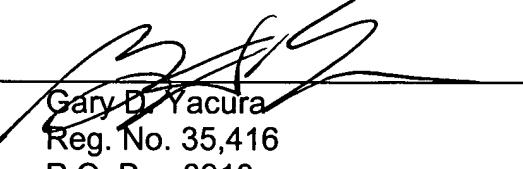
**Conclusion**

In the event there are any outstanding matters remaining in this application, the Examiner is invited to contact the signatory below in the Northern Virginia area, for the purpose of a telephonic interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By 

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GDY/RFS

Attached: Exhibits 1 and 2



Applicant: David D. HUO Case No.: 29250-000733/US

Serial No.: NEW Filing Date: June 30, 2003

Title: METHODS PROVIDING VARIABLE GRANULARITY FOR DATA FLOW  
CONTROL USING A LEAKY BUCKET

Please acknowledge receipt of: Utility Application Transmittal; Information Disclosure Statement; PTO Form 1449 with one (1) reference; specification (16 pgs.); one (1) sheet of Formal Drawings; and postage prepaid, return receipt postcards.

17613 U.S. PTO  
10/608445



06/30/03

By stamping and returning to Harness, Dickey & Pierce, P.L.C. USPTO Date Stamp

Due: 6/30/2003

Attorney: Gary D. Yacuracewd f. 6/30/2003

22

EXHIBIT 1

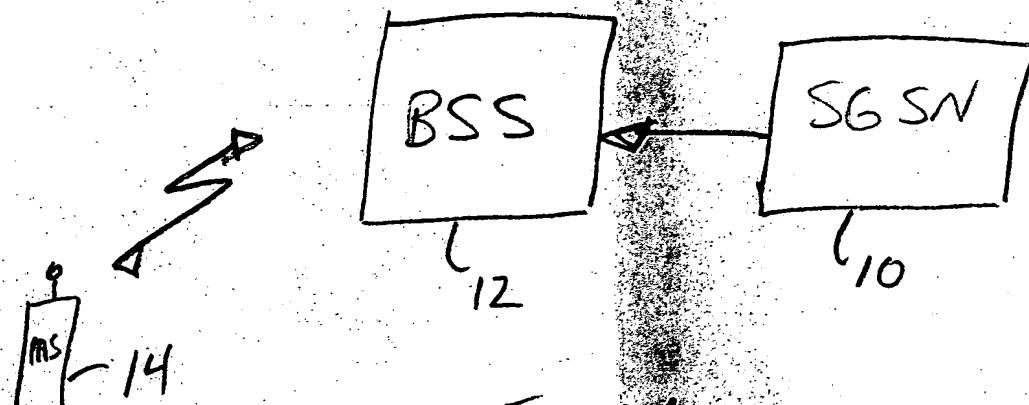


Fig. 1

Data packet  $p$  with length  $L(p)$   
arrives at time  $T_c$

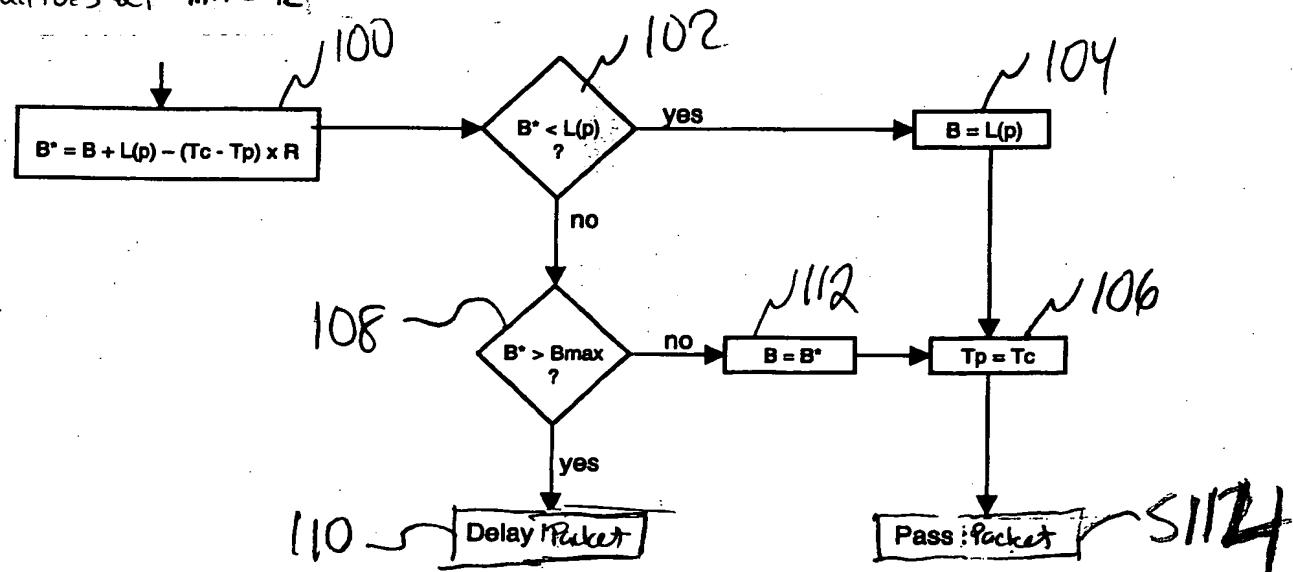


FIG. 2